

BEFORE THE

UNITED STATES OF AMERICA

POSTAL REGULATORY COMMISSION

WASHINGTON, DC 20268-0001

COMPETITIVE PRODUCT PRICES
INBOUND EMS 2
(MC2009-10)

Docket No. CP2017-271

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING CHANGES IN RATES
NOT OF GENERAL APPLICABILITY FOR INBOUND EMS 2

(August 25, 2017)

I. BACKGROUND

The Public Representative hereby provides comments pursuant to Order No. 4051.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's filing requesting changes in rates not of general applicability for Inbound EMS 2. The Public Representative hereby comments on the Notice² filed by the Postal Service.

The Postal Service's request is twofold. It is seeking a change in rates for Inbound EMS 2 and a change in reporting requirements, specifically, to discontinue filing quarterly updates listing all countries whose designated postal operators fall within each applicable tier of EMS rates. Notice at 1 and 8.

¹ Order No. 4051-Notice and Order Concerning Changes in Rates for Inbound EMS 2, August 17, 2017.

² Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, August 15, 2017 (Notice).

Included with its filing are Governors' Decision No. 11-6, the proposed new rates, service performance data, and supporting documents establishing compliance with 39 U.S.C. § 3633(a)(2) filed under seal in unredacted form. Additionally, the Postal Service's Application for Non-public Treatment is included as Attachment 1. A redacted version of the new rates is included as Attachment 2. The certified statement required by 39 C.F.R. § 3015.5(c)(2) is included as Attachment 3. A redacted copy of Governors' Decision No. 11-6 is included as Attachment 4. Also included are redacted copies of the most recent annual EMS Pay-for-Performance ("PfP") Plan available (for 2017), plus the most recent available annual and quarterly PfP Report Cards (for CY2016 and for the first two quarters of CY2017).

The Postal Service explains that it is simplifying its EMS rate structure. Notice at 3. The new rate structure offers one base rate that the UPU would publish on a non-public basis for members to apply to any foreign postal operator in the EMS Cooperative with which the Postal Service agrees to exchange EMS. In addition, on a contractual basis, the Postal Service may offer certain discounted inbound EMS rates below the base rate to any of the foreign postal operators with which it exchanges EMS. *Id.* at 5.

II. COMMENTS

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

The Postal Service did not calculate the cost coverage for Inbound EMS 2 based on which countries will pay the discounted and undiscounted rates. Instead, in its financial workpapers, the Postal Service presents two cost coverage calculations to demonstrate compliance with 39 U.S.C. § 3633(a). It calculates a minimum and a maximum cost coverage for Inbound EMS 2.

The maximum cost coverage calculation is irrelevant to determining compliance with 39 U.S.C. § 3633(a) because there is no price cap applicable to competitive products. In it, the Postal Service assumes that every postal administration pays the undiscounted rate. Thus, the cost coverage is calculated by applying the undiscounted EMS rates to EMS flows from all postal administrations. Consequently, the resulting cost coverage overstates the cost coverage for Inbound EMS 2 under the proposed rates because presumably, some postal administrations will pay the discounted rate.

Conversely, the minimum cost coverage calculation assumes that every postal administration pays the lowest possible discounted rate. In this case, the cost coverage is calculated by applying the lowest discounted EMS rates to flows from all postal administrations. The resulting cost coverage represents lowest possible cost coverage for Inbound EMS 2. As this cost coverage is above 100 percent, the new rates for Inbound EMS 2 should generate sufficient revenues to cover costs and therefore meet the requirements of 39 U.S.C. § 3633(a).

Providing the minimum cost coverage calculation is not only sufficient to demonstrate compliance with 39 U.S.C. § 3633(a), it has the advantage of diminishing the possibility that the cost coverage of Inbound EMS 2 would fall below 100 percent as countries move from paying the undiscounted rates to the discounted rates pursuant to contractual agreements with the Postal Service.³ Calculating cost coverage based on which countries currently pay the discounted and undiscounted rates, may overstate the cost coverage if additional countries elect to negotiate discounted rates with the Postal Service.

The Public Representative, after reviewing all materials the Postal Service submitted under seal in this matter, recommends that the Commission approve the change in rates for the Inbound EMS 2 product.

Reporting. The Postal Service requests to discontinue filing quarterly updates listing all countries whose designated postal operators fall within each applicable tier of

³ There is a remote possibility that costs for Inbound EMS 2 increase unexpectedly, resulting in revenues not covering cost.

EMS rates. Notice at 6-7. It contends that the Commission would be able to ascertain what foreign postal administrations entered into bilateral contracts with the Postal Service and the applicable contract rates because the Postal Service would file those contracts with the Commission (and with the Department of State) pursuant to 39 U.S.C. § 407(d)(2). *Id.*

Given that the Postal Service has demonstrated that the lowest possible contract rates would allow Inbound EMS 2 to cover cost, specific contract information is not necessary to determine compliance. The Commission should grant the Postal Service's request to forgo the current reporting requirement.

The Public Representative submits the preceding comments for the Commission's consideration.

Respectfully Submitted,

/s/ _____

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